

POST Agency Certification Practices, 2015

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This report summarizes key findings of the 2015 International Association of Directors of Law Enforcement Standards and Training (IADLEST) Survey of POST Agency Certification Practices. The survey was developed and administered during the first quarter of 2016 by Professor Hickman and graduate students in the Seattle University criminal justice program. The research protocol was reviewed and approved by the Seattle University Institutional Review Board. A copy of the survey instrument is attached to this report. All states and the District of Columbia were included in the study, and a 100% response rate was achieved.

There are three sections to this report. The first section summarizes the current state of certification and decertification authority among state POST agencies (or their equivalent), as well as the numbers of officers decertified during 2015 by state, type of officer, and general reasons for decertification actions. The second section addresses state POST participation in the National Decertification Index (NDI), including query activity as well as contribution of actions to the NDI. The final section reports on POST director opinions concerning decertification, the NDI, and the federal role.

Section I. Certification and Decertification among State POSTs

Forty-nine POST agencies had authority to certify officers during 2015

POST agencies in 49 states reported having the authority to certify law enforcement officers in 2015. Only Hawaii and the District of Columbia did not have a POST with such authority (Hawaii does not have a POST, and the POST in the District of Columbia does not certify officers). In addition, some POST agencies reported having the authority to certify correctional officers (25 agencies), private security officers (6 agencies), reserve or auxiliary officers (30 agencies), and other types of officers (17 agencies).

Forty-four POST agencies had authority to revoke certification during 2015

POST agencies in 44 states reported having the authority to revoke officer certifications during 2015. States not having authority to revoke included: California (which can only revoke in cases of misrepresentation or fraud on applications), Hawaii, Massachusetts, New Jersey, New York, and Rhode Island. In addition, the District of Columbia does not have authority to revoke.

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Twenty-two agencies reported having the ability to temporarily suspend certification or suspend on an emergency basis (for example if an officer is arrested or indicted for a felony). The majority of these agencies reported there was no maximum length of temporary suspension.

Nearly 1,850 officers decertified by state POSTs during 2015; scope of decertification authority varies greatly across the states

Among the 44 POST agencies having authority to revoke certification, the bases for revocation vary, and include: felony conviction (100%); specific misdemeanor convictions (80%); failure to meet training or qualification requirements (61%); misconduct (which may or may not include convictions) (57%); termination of employment for cause (39%); and any misdemeanor conviction (11%). Voluntary relinquishment in lieu of prosecution or revocation was also reported as a basis for revocation in 73% of agencies, and a little over half (55%) reported having the authority to decertify for other reasons. In addition, while all of these agencies can decertify law enforcement officers, some state POSTs reported having broader authority: 21 state POSTs can revoke certification for correctional officers; 4 for private security officers, 25 for reserve or auxiliary officers, and 15 for other types of personnel. Differences in the scope of decertification authority (both reasons and types of officers) can account for some state-level variation in the number of decertification actions.

It is also important to note that in some states, agencies other than the state POST may also have limited certification and/or decertification authority. For example, the Sheriff's Commissions in Michigan and North Carolina have authority for sheriff's deputies and correctional officers; these agencies are not included in this study.

Overall, the 44 state POSTs having the authority to revoke certification reported a total of 1,847 revocation actions during 2015. As in prior years, the greatest number of decertification actions came from Georgia (562) and Florida (399). Together, these two states account for just over half (52%) of all decertification actions during 2015 (see Table 1, next pages, for detail). Among 42 states able to report revocations by type of officer (representing 1,710, or 93%, of the total revocations), there were: 956 law enforcement officers (56%); 592 correctional officers (35%); 60 private security officers (4%), all from the state of Oregon; and 91 other types of personnel (5%) (Table 1).

The 1,847 decertification actions in 2015 marks a possible reversal in trend observed over the past 15 years; however, caution must be exercised in considering trends as state POST authority with regard to certification and decertification as well as authority regarding the reporting of decertification actions can change, and did change for some states during that timeframe. In 1999, a total of 1,810 decertification actions were reported; in 2004, a total of 1,506 were reported; in 2008, 1,556 were reported; and in 2011, 1,354 were reported. These figures suggest the

Table 1. Decertification actions among the 44 states having authority to decertify officers during 2015

State	Total revocations during 2015		Revocations by type of officer ^{a,b}				
	Number	Percent	Law enforcement officers	Correctional officers	Private security officers	Reserve or auxiliary officers	Others
Total	1,847	100.0	956	592	60	11	91
Alabama	24	1.3	20	3	-	1	-
Alaska	8	0.4	6	2	-	-	-
Arizona	28	1.5	28	-	-	0	0
Arkansas	28	1.5	28	0	-	0	-
Colorado	31	1.7	31	-	-	0	-
Connecticut	2	0.1	2	-	-	-	-
Delaware	1	0.1	1	-	-	-	-
Florida	399	21.6	102	281	-	0	16
Georgia	562	30.4	281	225	-	0	56
Idaho	17	0.9	9	7	-	0	1
Illinois	17	0.9	17	-	-	-	-
Indiana	2	0.1	2	-	-	-	-
Iowa	5	0.3	5	-	-	0	-
Kansas	29	1.6	29	-	-	-	-
Kentucky	9	0.5	9	-	-	-	-
Louisiana	0	0.0	0	0	-	0	-
Maine	19	1.0	6	11	-	2	-
Maryland	2	0.1	1	1	-	-	-
Michigan	15	0.8	15	-	-	-	-
Minnesota	2	0.1	2	-	-	-	-
Mississippi	0	0.0	0	-	-	0	-
Missouri	53	2.9	53	-	0	-	-
Montana	14	0.8	11	3	-	0	0
Nebraska	7	0.4	7	-	-	0	-
Nevada	7	0.4	5	2	-	0	-
New Hampshire	2	0.1	1	1	-	0	0
New Mexico	30	1.6	28	-	-	-	2
North Carolina ^a	63	3.4	^a	^a	-	^a	-
North Dakota	1	0.1	1	0	-	-	-
Ohio ^b	74	4.0	^b	-	-	-	^b
Oklahoma	65	3.5	58	0	0	7	0
Oregon	109	5.9	23	13	60	0	13
Pennsylvania	2	0.1	2	-	-	-	-
South Carolina	2	0.1	1	1	-	0	-
South Dakota	5	0.3	5	-	-	0	0
Tennessee	40	2.2	40	-	-	0	0
Texas	93	5.0	69	24	-	0	0
Utah	22	1.2	13	8	-	1	-

Table 1. Decertification actions among the 44 states having authority to decertify officers during 2015

State	Total revocations during 2015		Revocations by type of officer ^{a,b}				
	Number	Percent	Law enforcement officers	Correctional officers	Private security officers	Reserve or auxiliary officers	Others
Vermont	7	0.4		7	-	-	-
Virginia	6	0.3		6	0	0	0
Washington	20	1.1		20	-	-	-
West Virginia ^c	5	0.3		5	-	-	-
Wisconsin	0	0.0		0	-	-	-
Wyoming	20	1.1		7	10	-	0

Notes: - POST does not decertify type of officer. ^a Total figure for North Carolina is an estimate based upon the number of "probable cause" cases during 2015; detail by type of officer unavailable. ^b Ohio reported they do not differentiate decertifications by type of officer. ^c Total figure and detail for West Virginia is a POST estimate.

possibility of a declining trend in the number of annual decertification actions from 1999 to 2011, with an increase to 1999 levels being reported during 2015.

Felony convictions the most frequent element of officer decertification cases in 2015, followed by misconduct; different mix for law enforcement officers compared with correctional officers

Thirty-nine POST agencies were able to provide detail regarding the general underlying reasons officers were decertified in 2015, and these agencies represent 63% of all decertification actions reported in 2015. Felony conviction was an underlying reason in 38% of the decertification actions in these states. It is important to note that these reasons are not mutually exclusive, and agencies reported multiple reasons for some officers. Misconduct (35%) and misdemeanor convictions (8%) were the next most frequent reasons noted. Termination of employment for cause (3%), failure to meet training or qualification requirements (0.5%), and “other” reasons (1%), were less frequently noted. In addition, it is important to note that voluntary relinquishment in lieu of prosecution or revocation action was noted in 14% of decertification actions during 2015.

Comparing law enforcement officers with correctional officers, the mix of underlying reasons for decertification was notably different. Among law enforcement officers, 43% involved a felony conviction and 23% involved misconduct, compared with 22% that involved a felony conviction and 63% that involved misconduct for correctional officers. The proportion of decertification actions involving a misdemeanor conviction was also higher for law enforcement officers (10%) as compared to correctional officers (4%).

Agencies in 22 states obligated to report awareness of disqualifying conduct to POST

One challenge facing decertification authorities is how to determine whether an officer who has separated from an agency may have engaged in conduct that could lead to decertification. Law enforcement agencies in most states are required to report separations to their POST, but unless agencies are specifically required to report awareness of disqualifying conduct, the burden is on the decertification authority to investigate whether disqualifying conduct may have been a factor. In some states, a POST may learn about disqualifying conduct through word-of-mouth, news media, or other indirect sources.

POST agencies in 42 of the 44 states having revocation authority reported that law enforcement agencies in their state must report employment separations of any type to the POST. In 22 of those states, law enforcement agencies must also report their awareness of conduct that could lead to decertification, while in the other 20 states agencies are not specifically obligated to report awareness of conduct that could lead to decertification. Two states having revocation authority reported that agencies in their states are not obligated to report separations to the POST agency.

Certification records generally retained by POSTs indefinitely

POST agencies in 36 of the 44 states having revocation authority reported maintaining decertification records indefinitely; one agency reported a five year retention period, and the other seven agencies reported fairly long periods of records retention, ranging from 30 to 75 years.

Thirty-five POST agencies publish revocation actions

Thirty-five POST agencies reported that they publish revocation actions. The most common format was to publish these actions in the minutes of POST meetings (29 states), followed by an online location such as the POST agency's website (13 states), some other type of agency publication (4 states), and newspapers or other public media (2 states) (these categories are not mutually exclusive). Among the nine POSTs not publishing revocation actions in some form, one indicated that they were legislatively prohibited from doing so, three indicated that it was their POSTs policy not to do so, one indicated that they do publish the general circumstances that led to decertification but not specifics, and one indicated that they only do so in response to FOIA requests.

Section II – National Decertification Index (NDI)

Thirty-eight POST agencies reported that they contribute actions to the NDI, an increase of eight POSTs since 2011

Thirty-eight state POST agencies in 2015 reported that they contribute decertification actions to the NDI, or about 86% of all agencies having the authority to revoke certification. This is an increase of eight agencies since the most recent prior IADLEST survey, conducted in 2011. Thirty-three of these agencies were able to provide detail about actions they contributed to the NDI, and they reported a total of 1,143 actions during 2015. It is important to note that there is not a direct relationship between the number of decertification actions in a given year and the number of actions contributed to the NDI during that year. Some entries may be substantially lagged by administrative processes and reported in a following year, and some agencies may have only recently begun contributing actions and are in a process of “catching up” (i.e., reporting decertification actions from prior years). Among the agencies able to provide detail, 65% of the actions contributed during 2015 were for law enforcement officers, 33% were for correctional officers.

Among POST agencies having revocation authority but not contributing actions to the NDI, some of the reasons mentioned for not contributing actions included legislative prohibitions against making actions public, and it being too labor intensive to upload the actions to the NDI. Others mentioned that they were looking at the possibility of participating in the NDI in the future.

As of March 31, 2016, there were a total of 20,577 decertification actions in the NDI contributed by 39 states. For greater detail, see www.iadlest.org/Projects/NDI20.aspx.

Twenty-eight agencies report “always” or “frequently” querying the NDI in 2015, an increase of six POSTs since 2011

Including all 49 POST agencies having certification authority, 28 agencies reported “always” (18 states) or “frequently” (10 states) querying the NDI in order to determine whether an individual has been decertified in another state. This is an increase of six agencies since the most recent prior IADLEST survey, conducted in 2011. Eleven agencies reported “occasionally” (7 states) or “rarely” (4 states) querying the NDI, and 10 agencies reported “never” querying the database. It is important to note that some POSTs may not be directly involved in the hiring process (for example, only if a waiver is involved), and may rely on hiring agencies to query the NDI, thus the POST’s use of the NDI may be less frequent. Thirty-five state POSTs reported that they issue NDI query-only accounts to law enforcement agencies in their state; 24 were able to report the number of agencies that had been issued such accounts, and the total was 375 agencies.

Among the POST agencies querying the NDI with any frequency, there were two agencies that reported “hits” returned by the NDI during 2015 (i.e., information that an individual seeking employment had been decertified in another state). These two POSTs each reported receiving one “hit,” and in both cases reported that the individuals were not subsequently certified.

In a more general question, four POSTs reported that law enforcement agencies in their state have hired individuals as officers who had been decertified in another state, 20 POSTs reported that law enforcement agencies have not done so, but another 24 reported that they don’t know.

Section III – POST Director Opinions on Decertification

Strong majority of POST directors believe decertification is an effective deterrent to misconduct, and an effective mechanism for removing individuals unsuited for law enforcement in their state

When asked to what extent they believe decertification is an effective deterrent to police misconduct in their state, 34 of 42 responding POST directors (or 81%) either agreed (29) or strongly agreed (5); seven directors disagreed, and one strongly disagreed. When asked to what extent they believe decertification is an effective mechanism for removing individuals unsuited for law enforcement from the employment pool, 38 of 42 responding directors (or 91%) either agreed (20) or strongly agreed (18); four directors disagreed.

POST Directors spoke with one voice on participation in the NDI: All states should do it

When asked to what extent they believe all states should participate in the National Decertification Index, 42 of 42 responding POST directors (or 100%) either agreed (11) or strongly agreed (31).

POST Directors opposed a strong federal role in regulating decertification, but were more open to attaching decertification to eligibility for federal grant funding

When asked to what extent they believe the federal government should regulate police decertification, 38 of 41 responding POST directors (or 93%) either disagreed (15) or strongly disagreed (23); one director agreed and two strongly agreed. However, when asked to what extent they believed that the federal government should take into account the presence, strength, and level of compliance with decertification laws in a state when issuing grants, 26 of 41 responding directors (or 63%) either agreed (21) or strongly agreed (5); ten directors disagreed, and five strongly disagreed.

APPENDIX A

DATA COLLECTION INSTRUMENT

2015 IADLEST Survey of POST Agency Certification Practices

The purpose of this survey is to document current certification and decertification practices among state POST agencies, boards, and/or commissions. The intended survey respondent is the Director or equivalent executive in charge of the POST agency. We ask for contact information below in case we have questions about the completed survey responses. This contact information will not be disclosed or used for any other purpose.

Name of Individual Completing Survey	Agency

Telephone	E-Mail Address

Definitions of key terms used in this survey:

Certification: The state certification, licensure, or accreditation of peace officers, without which an individual may not legally perform the duties of a law enforcement officer.

Revocation: The removal for cause of law enforcement officer certification. Often referred to as decertification or cancellation.

Section A – Certification and Revocation Authority and Activity

1. If your agency does not have the authority to certify or revoke the certification of peace officers in your state, please check this box ☐ and complete only sections 'B' and 'C' of the questionnaire.

2. Does your agency certify and/or revoke certification for the following types of officers?
Please check the box if your agency can certify and/or revoke certification for each officer type.

	<u>Agency can certify</u>	<u>Agency can revoke</u>
a. Law Enforcement Officers	<input type="checkbox"/>	<input type="checkbox"/>
b. Correctional Officers	<input type="checkbox"/>	<input type="checkbox"/>
c. Private Security Officers	<input type="checkbox"/>	<input type="checkbox"/>
d. Reserve or Auxiliary Officers	<input type="checkbox"/>	<input type="checkbox"/>
e. Others	<input type="checkbox"/>	<input type="checkbox"/>

3. Can your agency temporarily suspend certification (or suspend on an "emergency" basis, for example if an officer is arrested or indicted for a felony)?

- ☐ Yes – please enter maximum length of temporary or emergency suspension: _____
- ☐ No

4. **What are the bases for revocations in your state?** *Please check all that apply.*

- | | |
|---|--|
| <input type="checkbox"/> Felony conviction | <input type="checkbox"/> Termination of employment for cause |
| <input type="checkbox"/> <i>Any</i> misdemeanor conviction | <input type="checkbox"/> <i>Specific</i> misdemeanor convictions |
| <input type="checkbox"/> Failure to meet training/qualification requirements | <input type="checkbox"/> Misconduct |
| <input type="checkbox"/> Voluntary relinquishment in lieu of prosecution or revocation action | <input type="checkbox"/> Other reasons |

5. **During the 12-month period ending December 31, 2015, how many peace officers had their certification revoked for any reason?**

Total revocations during the 12 months ending December 31, 2015: _____

6. **Of the total revocations reported in question 5 above, how many revocations were for:**

- a. Law enforcement officers
- b. Correctional officers
- c. Private security officers
- d. Reserve or auxiliary officers
- e. Others

Please verify that the numbers reported in the column above sum to the total number of revocations reported in question 5, before continuing.

7. **Of the total revocations reported in question 5 above, how many were for the following reasons:** *For individual cases that involved more than one reason, please tally each reason.*

Reasons for revocation	Law enforcement officers	Correctional officers	Private security officers	Reserve officers	Others
a. Felony conviction					
b. Misdemeanor conviction					
c. Misconduct					
d. Failure to meet training or qualification requirements					
e. Termination of employment for cause					
f. Voluntary relinquishment in lieu of prosecution or revocation action					
g. Other reasons					

8. Does another state agency also have the authority to certify and/or revoke certification of peace officers in your state?

- ☐ Yes - please identify agency(ies): _____
- ☐ No

9. Are the hiring agencies in your state required to report officer separations from employment to your agency? Please check only one response.

- ☐ Agencies must report separations of any type
- ☐ Agencies must report separations of any type AND must report awareness of conduct that could lead to decertification
- ☐ Agencies must report only those separations that could lead to decertification
- ☐ Agencies are not required to report separations

10. How long are officer decertification records maintained by your agency?

- ☐ Indefinitely
- ☐ Specific time period (please specify): _____

11. Does your agency maintain records of initial denial of certification?

- ☐ Yes
- ☐ No

12. Does your agency publish revocation actions?

- ☐ Yes (identify below, select all that apply)
 - ☐ Newspaper / public media
 - ☐ Online / agency website
 - ☐ Agency publication
 - ☐ Meeting minutes
 - ☐ Other (please specify): _____
- ☐ No (identify below, select all that apply)
 - ☐ Legislatively prohibited
 - ☐ Other reasons (please specify): _____

Section B – National Decertification Index

1. Does your agency query the IADLEST National Decertification Index (NDI) in order to determine whether an individual has been decertified in another state?

- ☐ Always
- ☐ Frequently
- ☐ Occasionally
- ☐ Rarely
- ☐ Never – skip to question 4 below.

2. Did your agency receive any “hits” on an NDI query during the previous 12 months (i.e., information that an individual had been decertified in another state)?

- ☐ Yes – please enter the number of “hits” during previous 12 months: _____
- ☐ No – skip to question 4 below.

3. Did your agency subsequently certify any of the individuals for whom you received “hits” on NDI queries (as reported in question 2, above)?
- ☐ Yes ☐ No
4. Does your agency issue NDI query-only accounts to law enforcement agencies within your state?
- ☐ Yes – please enter the number of agencies that have been issued accounts: _____
☐ No
5. Does your agency contribute records to the NDI?
- ☐ Yes – please enter below the number of records contributed to the NDI during the 12-month period ending December 31, 2015, for:
- | | |
|----------------------------------|--|
| a. Law enforcement officers | |
| b. Correctional officers | |
| c. Private security officers | |
| d. Reserve or auxiliary officers | |
| e. Others | |
- ☐ No – please state reason(s) for not contributing records to the NDI: _____
6. Does your agency investigate decertification records, other than checking the NDI?
- ☐ Yes ☐ No
7. Have law enforcement agencies in your state hired individuals (as officers) who had been decertified in another state?
- ☐ Yes ☐ No ☐ Don't know

Section C – General Certification Questions

1. Can individuals in your state start working as officers ...
- a. ... prior to starting their training? ☐ Yes ☐ No
b. ... prior to completing their training? ☐ Yes ☐ No
2. Does your state law related to officer decertification include racially-biased policing as one of the behaviors that can lead to decertification?
- ☐ Yes ☐ No
3. Decertification in my state is an effective deterrent to police officer misconduct.
- ☐ Strongly Agree ☐ Agree ☐ Disagree ☐ Strongly Disagree

4. **Decertification in my state is an effective mechanism for removing individuals unsuited for law enforcement from the employment pool.**
- ☐ Strongly Agree ☐ Agree ☐ Disagree ☐ Strongly Disagree
5. **All states should participate in the National Decertification Index (NDI).**
- ☐ Strongly Agree ☐ Agree ☐ Disagree ☐ Strongly Disagree
6. **The federal government should regulate police decertification.**
- ☐ Strongly Agree ☐ Agree ☐ Disagree ☐ Strongly Disagree
7. **When issuing grants, the federal government should take into account the presence, strength, and level of compliance with police decertification laws in a state.**
- ☐ Strongly Agree ☐ Agree ☐ Disagree ☐ Strongly Disagree
8. **Are there any barriers to effective decertification in your state?**
-

Please use the space below to provide any additional comments about certification / decertification, comments about the survey, or additional information for specific survey items:

Thank you for completing the survey! Please return the survey in the provided pre-addressed and stamped envelope to:

IADLEST Certification Survey
Attn: Matthew Hickman
Department of Criminal Justice
Seattle University
901 12th Street / P.O. Box 222000
Seattle, WA 98122